



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,627	12/29/2000	Joseph F. Khouri	062891.0471	2064

5073 7590 10/06/2006

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,627

Applicant(s)

KHOURI ET AL.

Examiner

Stephan F. Willett

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 and 58-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,9-13,15,16,21,26,31-36,41-50,58-62 and 65-68 is/are rejected.
- 7) ☒ Claim(s) 4,6-8,17-20,27-30,37-40,63-64 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. Claims 4, 6-8, 17-20, 27-30, 37-40, 63-64 are objected to as being dependent upon a objected/rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. The following is an examiner's statement of reasons for allowance: claims 4, 6, 17-18, 27-28, 37-38, 63-64 teach a VoIP device that commands an external network device to adjust the delivery rate and that commands to reserve bandwidth and/or determine the adjusted rate based on the amount of media in memory.

1. The closest prior art of record Nelson, Bowater, Rogers, and Knappe do not teach sending commands to reserve bandwidth involving claims 4, 17, 27, 37, 64 or determine the adjusted rate based on the amount of media in memory involving claims 6, 18, 28, 38, 63.

Therefore, claims 4, 6, 17-18, 27-28, 37-38, 63-64 are allowable over the prior art.

2. Claims 7-8, 19-20, 29-30, 39-40 are allowed by the same rational as well as the further limitations added by these dependent claims.

1. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC 103

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103 and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 9-13, 15-16, 21-26, 31-36, 41-50, 58-62, 65-68 are unpatentable over the combination of Nelson, U.S. Patent No. 6,741,705, in view of the APA, Bowater et al., U.S. Patent No. 6,223,153, and Rogers et al., U.S. Patent No. 6,785,379.

1. Regarding claim 1, Nelson teaches the invention substantially as claimed by disclosing a voice over IP telephony device (Fig. 1 elem. 22 or elem. 24; col. 3 lines 13-17) used to access a voice mail system (Fig. 1 elems. 28 & 29). The voice mail system streams voice mail messages to the IP telephony device (col. 7 lines 60-62). The VoIP telephony device controls the delivery of streaming media because the user of the telephony device requests the delivery of voice mail messages (col. 6 lines 56-59). The VoIP telephony device implicitly includes a communication

network interface operable to receive streaming media from a network device (i.e., the voice mail system) external to the IP telephony device since Figure 1 shows the VoIP telephony devices coupled to the network. Nelson describes the streaming media as comprising a voice message (col. 6 lines 56-59 and col. 7 lines 60-62 showing voice mail message). The voice mail is received by the communication network interface at a first delivery rate (i.e., the voice message is delivered at the such that the playback occurs at the normal rate for voice messages).

2. Nelson does not explicitly describe (a) a memory coupled to the communication network interface, the memory operable to store media received through the communication network interface and (b) a media rate controller coupled to the memory and the communication network interface, the controller operable to determine an adjustment to the first delivery rate and generate a command for transmission to the external network device, the command requesting a subsequent transmission of streaming media from the external network device to the VoIP telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate.

3. The APA on page 13 of the specification states that buffer optimization in streaming systems is well known. For the optimization of a buffer to be well known, the buffer itself must also be well known. The APA therefore describes a memory (i.e., the streaming buffer) coupled to a communication network interface, the memory operable to store media received through the communication network interface.

4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the APA's streaming buffer with the system of Nelson based on Nelson's

Art Unit: 2142

description of the system as using streaming and the applicants' admission that the use of a streaming buffer is well known in the art.

5. The combination of Nelson in view of the APA does not teach a media rate controller coupled to the memory and the communication network interface, the controller operable to determine an adjustment to the first delivery rate and generate a command for transmission to the external network device, the command requesting a subsequent transmission of streaming media from the external network device to the VoIP telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate.

6. Bowater on the other hand teaches a voice mail system that speeds up and slows down the rate at which a voice mail message is played back by dropping voice samples or repeating voice samples (col. 4 lines 44-66). When the user of a telephony device presses a DTMF key, the playback rate either speeds up or slows down (col. 7 lines 12-26). Bowater there teaches a system that is operable to determine an adjustment to the first delivery rate and generate a command for transmission to an external network device, the command requesting a subsequent transmission to a telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate.

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the voice mail system of Nelson (1) to store its audio files in LPC format as opposed to in .wav format and (2) to provide speed up and slow down capability in response to a user command as taught by Bowater. It would have been obvious to one of ordinary skill in the art at the time the invention was made store the audio files in a compressed form (i.e., LPC encoded) because a compressed form reduces the required storage space in the server. It would

Art Unit: 2142

have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bowater to provide speed up and slow down capability in response to a user command based on Rogers' explicit teaching that speedup and slowdown controls, like those in Bowater, are implemented in VoIP systems, like the one in Nelson (col. 45 lines 64-67). The combination of Nelson in view of the APA as modified by Bowater and Rogers therefore teaches the invention as claimed. When a user enters information into the IP telephony device indicating a desire for speeded up playback, the software operable in the IP telephony device (i.e., the media rate controller) determines that an adjustment to the first delivery rate is necessary (i.e., a speed up of the current playback rate) and generates a command for transmission to the external network device requesting a subsequent transmission of streaming media (i.e., the voice mail message) from the external network device to the VoIP telephony device to be delivered at an adjusted delivery rate (i.e., slower since a speed up drops LPC blocks) based on the adjustment to the first delivery rate.

8. Regarding claim 15, it is a method claim corresponding to apparatus claim 1. Since it does not teach or define over the information in the corresponding apparatus claim, it is rejected for the same reasons.

9. Regarding claim 24, it is directed to a set of logic (i.e., program) encoded in a media that performs the method of claim 15. Since the media claim does not teach or define over the information in the corresponding apparatus claim, it is rejected for the same reasons.

10. Regarding claim 35, it is an apparatus claim written in means plus function form that corresponds to apparatus claim 1. Since the particular structure disclosed in the specification as

Art Unit: 2142

performing the functions of the means plus function limitations includes the particular structure identified in claim 1, separate reasons for rejection are not necessary.

11. Regarding claim 44, it is an apparatus claim directed to a system for delivering streaming media that is used with the VoIP telephony device of claim 1. Generally, the applicant is referred to the rejection of claim 1. Nelson teaches that the voice mail server includes a network interface (col. 4 lines 17-21). Nelson teaches that the voice mail server is operable to send streaming media to a communication network for transmission to a VoIP telephony device (col. 7 lines 60-62). Nelson therefore teaches the limitation of a communication network interface external to a VoIP telephony device operable to send streaming media to a communication network for transmission to a VoIP telephony device. Nelson teaches a memory coupled to the communication network interface, the memory including at least one file containing media (Fig. 1 elem. 27 file system; col. 4 lines 27-49). As to the limitation of the delivery controller, the reasons the combination of Nelson in view of the APA as modified by Bowater and Rogers teaches the delivery controller as claimed are readily apparent from the rejection of claim 1 above.

12. Regarding claim 58, it is a system claim directed to the combination of the VoIP telephony device of claim 1 coupled via a communication network to the system for delivering streaming media of claim 44. The combination of Nelson in view of the APA as modified by Bowater and Rogers renders claim 58 obvious for the reasons given in the discussion of claims 1 and 44 above.

13. Regarding claim 2, Nelson teaches a LAN interface Ethernet card, col. 3, line 2.

Art Unit: 2142

14. Regarding claim 3, 16, 25, 36, 46, 52, 65, Nelson teaches VoIP packets, col. 4, lines 40-42.
15. Regarding claim 5, Bowater teaches the adjustment to the first delivery rate specifies a new rate for the delivery of the streaming rate as “vary the rate”, col. 7, lines 25-26.
16. Regarding claim 9, 21, 31, 41, Rogers teaches an output device coupled to memory and an output interface and generate output, col. 44, lines 27-28.
17. Regarding claim 10, 23, 33, 43, 48, 50, 61, 66, 68, Rogers teaches an input device to detect commands to adjust the output rates, col. 45, line 46.
18. Regarding claim 22, 26, 32, 42, 47, 59, Nelson teaches sound or video, col. 2, line 43.
19. Regarding claim 34, Nelson teaches software, col. 3, line 15.
20. Regarding claim 49, 62, Rogers teaches an adjusted rate is less than the previous rate, col. 45, line 64.
21. Regarding claim 11-13, the patents above discloses the method of the preceding claims. The patent above do not explicitly disclose input devices such as a button, speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted. However, Official Notice is taken MPEP 2144.03 (a)) that input devices such as a button, speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted is well known in the art to insure software is able to communicate. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to use input devices such as a button, speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted to obtain the advantages of communicating with compatible software. By the above rational, the claim is rejected.

Art Unit: 2142

22. Regarding claim 60, Nelson teaches a telephone, col. 3, line 14.

23. Regarding claim 67, Nelson teaches a remote device, col. 7, line 66.

24. Claim 14 is unpatentable over the combination of Nelson in view of the APA, Bowater, and Rogers, as applied to claim 1 above, and further in view of Knappe, U.S. Patent No. 6,603,774.

25. Regarding claim 14, it is a system claim narrower in scope than claim 1 addressed above. For example, claim 14 specifies (a) a network interface card as opposed to a network communication interface and (b) a random access memory as opposed to a memory. Given Nelson's teaching that a VoIP telephony device may be a personal computer running telephony software, Nelson implicitly teaches these specific limitations since network interface cards and random access memory are common features of computers. As to the limitation of a coder/de3coder coupled to the memory, the coder/decoder operable to convert the processed audio media into analog signals representative of audible sounds, Nelson teaches that the VoIP telephony device has a codec performing these functions (col. 3 lines 41-46). Nelson implicitly teaches a speaker coupled to the coder/decoder, the speaker operable to receive the analog signals and generate audible sounds based on them (a speaker is necessary to make a "voice" message audible to the user). The combination of Nelson in view of the APA, Bowater, and Rogers therefore teaches the invention substantially as claimed.

26. The combination of Nelson in view of the APA, Bowater, and Rogers does not explicitly teach a VoIP telephony device further comprising a digital signal processor coupled to the

Art Unit: 2142

memory, the digital signal processor operable to process the media in the buffer based on the rate at which output is being generated based on the media.

27. Knappe on the other hand teaches a digital signal processor operable to process the media in the received by an IP telephony device based on the rate at which output is being generated based on the media (col. 2 lines 52-61).

28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Knappe's teaching regarding the use of DSP's within IP telephony devices with the system of the combination of Nelson in view of the APA, Bowater, and Rogers by modifying Nelson's IP telephony device to include a DSP for performing codec functions. This combination would have been obvious based on Knappe's explicit suggestion to do so (col. 2 lines 52-61).

Response to Amendment

1. Applicant's arguments with respect to the rejection(s) of the claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP, 706.07(a).

Art Unit: 2142

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

4. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571)272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

1. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

sfw

October 2, 2006



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER